

**CERTIFIED FOR PUBLICATION**

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

GREAT WEST CONTRACTORS, INC.,

Plaintiff and Appellant,

v.

IRVINE UNIFIED SCHOOL DISTRICT,

Defendant and Respondent.

G041688

(Super. Ct. No. 30-2008-00107122)

ORDER MODIFYING OPINION; NO  
CHANGE IN JUDGMENT

The opinion filed August 31, 2010 is hereby modified in the following ways:

(1) On page 21 of the slip opinion, in footnote 16, delete the word “only” in the first sentence of the second paragraph.

(2) On page 33 of the slip opinion, delete the last full paragraph on the page and in its stead substitute the following: “The appellate agreed with the trial court that the school district had incorrectly rejected the lowest bidder’s bid as nonresponsive

when the bidder had really been rejected as nonresponsive. As such, the lowest bidder was entitled to at least a ‘due process hearing’ on the purported nonresponsibility. (*D.H. Williams, supra*, 146 Cal.App.4th at p. 772.)”

(3) On page 33 of the slip opinion, after the citation to *D.H. Williams* just referenced, insert the following new footnote 26:

26. While the appellate court agreed with the trial court on the responsiveness-responsibility issue, it reversed the judgment requiring the contract be awarded to the lowest bidder, and directed the trial judge to order the school district to offer the contract to the lowest bidder within 15 days, unless before the 15 days were up the District provided notice to the lowest bidder that its deemed it not responsible and offered the lowest bidder a due process hearing on that determination. (*D.H. Williams, supra*, 146 Cal.App.4th at p. 772.) The *D.H. Williams* court reasoned that in requiring the school district to award the contract to the lowest bidder directly, the trial court deprived the school district of the opportunity to determine whether the lowest bidder really was responsible. Obviously if not, the school district would be under no obligation to award it the contract.

In the present case, the District has made no request that, in the event of reversal, the trial court should be ordered to require the District to, as in *D.H. Williams*, first provide notice that Great West is deemed not responsible and then offer Great West a due process hearing on that determination. Nor do we have any need to opine on any possible future due process hearing on remand after reversal. That question is, at this moment, premature.

These modifications do not affect the judgment.

SILLS, P. J.

WE CONCUR:

BEDSWORTH, J.

IKOLA, J.